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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,968	01/28/2004	Michael T. Clouser	5060-000134	5681
27572	7590	10/24/2006	EXAMINER	
HARNESSE, DICKEY & PIERCE, P.L.C.			HUSBAND, SARAH E	
P.O. BOX 828			ART UNIT	PAPER NUMBER
BLOOMFIELD HILLS, MI 48303			1746	

DATE MAILED: 10/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/767,968	<b>Applicant(s)</b> CLOUSER, MICHAEL T.	
	<b>Examiner</b> Sarah E. Husband	<b>Art Unit</b> 1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 30-39 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-16 and 30-39 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 8/8/2006 have been fully considered but they are not persuasive. Applicant's arguments regarding the 102(b) rejection in view of Gadini are not persuasive. Applicant argues that Gadini does not disclose computing water temperature from the measured resistance of the heating element. However, this argument is not persuasive because Gadini specifically describes that the heating means is a PTC resistor which is self adjusting, and would ultimately vary in resistance as a result of the change in temperature and respond based on this resistance value (see col. 6, ll. 30-40; col. 39, ll. 48-60). (See also the article entitled, "PTC resistor heating: a new generation of elements").

Applicant's arguments regarding Khadkikar are also not persuasive because Khadkikar discloses the temperature sensor can be a resistive heater or "self-heated" temperature sensor (col. 4, ll. 20-27) therefore reading on the claims. Applicant also admits that the water is heated by element 32 (see Remarks, page 10). Applicant also discusses the nature of Khadkikar, however, only provides the argument for Gadini, which is shown in the last line on page 10. It would also be apparent that both of these references would provide heated water in a dishwasher as this limitation does not provide structure as to further limit the placement of the heating element; it merely discusses the location of the water after it has been heated.

Applicant's arguments regarding the 103 rejection of Gadini and Hoffman are also not persuasive because Hoffman was not meant to disclose a heating element operative to

heat water and change in resistance. Hoffman was merely cited as showing that it would have been obvious for one of ordinary skill in the art to modify Gadini with a heater controlled by a timer as described in the previous rejection.

Therefore, the rejection stands as follows.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-5, 8-10 and 30-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Gadini (US Patent No. 6,823,878).

Gadini discloses a dishwasher having a heating element that has a resistance, positive temperature coefficient and a control unit coupled to the heating element (col. 4-col. 5; col. 39). Gadini also discusses a preset temperature (col. 39) and therefore this would associate with a target resistance. Gadini also discloses a water supply and valve (see Fig. 1). Gadini

also describes different phases or cycles of the dishwasher which require the preset temperature of the liquid (see entire document; col. 6).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Khadkikar (US Patent No. 6,085,588).

Khadkikar discloses a temperature sensor (36) in a heating unit (32), which is controlled by a computer device (38). (See also col. 6, ll. 30-40; col. 39, ll. 48-60).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 7, 11-16, and 33-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gadini in view of Hoffman (US Patent No. 4,159,211).

Gadini discloses the dishwasher shown above in the 102(e) rejection. Gadini does not specifically disclose the timer controlling the heating element. Hoffman discloses the use of a timer to control the heating element (Abstract). Hoffman also discloses the user interface with selection means (See Fig. 2). These are well established in the art and would

be obvious to include. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Gadini with Hoffman for the benefit of easily controlling and adjusting the temperature of the liquid.

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah E. Husband whose telephone number is (571) 272-8387. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1746

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SEH

A handwritten signature in black ink, appearing to read 'Michael Barr', with a large, sweeping underline that extends to the right.

**MICHAEL BARR**  
**SUPERVISORY PATENT EXAMINER**